

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 01-0246P**

**Sales and Use Tax**

Calendar Years 1998 and 1999

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**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer is a retailer of logging equipment and maintains a service and parts department. Taxpayer was previously audited on August 1, 1997. The major issues of the current audit were issues in a prior audit. Taxpayer self assessed less use tax in the current audit than the prior audit. Taxpayer made taxable purchases such as manuals, catalogs, rental equipment, janitorial supplies, tools, maintenance supplies, and other miscellaneous items for its own use. Taxpayer also failed to remit a portion of its collected sales taxes, which was a prior audit issue.

**I. Tax Administration – Penalty**

**DISCUSSION**

At issue is whether the taxpayer was negligent in reporting its sales and use taxes. Taxpayer failed to remit sales tax collected and to self assess use tax on clearly taxable issues. These issues were prior audit issues where the taxpayer made no corrections. The prior audit assessed \$388, \$1000, and \$739 in 1994, 1995, and 1996 respectively while the current audit assessed \$10,207 and \$3,809 in 1998 and 1999. Taxpayer's request is merely a request based upon her own feeling that the penalty should be waived. No arguments have been provided except that she does not deserve a penalty.

A review of the current audit revealed the taxpayer made no attempt to self assess use tax on

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clearly taxable items and failed to remit 99% in use tax due. The penalty is appropriate, as the taxpayer made no effort to correctly self assess use tax. In addition, taxpayer had errors in the reporting of its sales tax.

**FINDING**

Taxpayer's protest is denied.

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